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## 2007 Decisions

## Opinions of the United States Court of Appeals for the Third Circuit

12-6-2007

# Stiffler v. Equitable Res Inc

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 06-4602

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JAMES STIFFLER,  
Appellant  
v.

EQUITABLE RESOURCES, INC.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
(D.C. Civ. No. 05-cv-01112)  
District Judge: Honorable Terrence F. McVerry

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Submitted Under Third Circuit L.A.R. 34.1(a)  
November 1, 2007

Before: RENDELL, WEIS and NYGAARD, Circuit Judges.

(Filed: December 6, 2007)

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OPINION

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WEIS, Circuit Judge.

Plaintiff was an employee of defendant Equitable Resources, Inc.

(“Equitable Resources”) until he was discharged on July 12, 2002. He brought this civil

action contending that he was discharged because of his age in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq., and the Pennsylvania Human Relations Act, 43 Pa. Stat. § 951 et seq. He also alleged reverse race discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. and the PHRA. Finally, he asserted a claim for unpaid commissions under Pennsylvania's Wage Payment and Collection Law, 43 Pa. Stat. § 260.1 et seq.

The case was assigned to a Magistrate Judge who prepared a comprehensive report recommending that summary judgment be entered for the defendant on all counts. The District Court adopted the recommendation and entered the judgment.

Plaintiff worked in the sales and marketing department of the Equitable Gas Company, an operating arm of Equitable Resources. Beginning in August 2000, he served as the Energy Technology Coordinator. In February 2002, in accordance with a revised employee evaluation plan instituted by the new CEO of Equitable Resources, plaintiff was given a low "L" rating for his overall performance in the year 2001. He was then placed on a performance improvement plan. The plaintiff's superiors subsequently found that he did not meet the plan's objectives and terminated his employment.

The Magistrate Judge examined the evidence in sufficient detail and we need not reiterate that extensive analysis. We conclude essentially for the reasons stated in the report that the entry of summary judgment on the age and reverse race discrimination claims was correct. We also agree that the plaintiff failed to establish a claim for unpaid commissions.

Accordingly, the judgment of the District Court will be affirmed.